

Message Text

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ACTION EUR-25

INFO OCT-01 ISO-00 L-03 CIAE-00 DODE-00 PM-07 INR-11

NSAE-00 NSC-07 PA-04 RSC-01 PRS-01 SP-03 SS-20

USIA-15 ACDA-19 IO-14 NIC-01 DRC-01 /133 W

----- 041574

O R 171413Z SEP 74

FM AMEMBASSY BONN

TO USMISSION BERLIN IMMEDIATE

INFO SECSTATE WASHDC 5075

C O N F I D E N T I A L SECTION 01 OF 02 BONN 14708

E.O. 11652: GDS

TAGS: PGOV, WB, GW, US, UK, FR

SUBJECT: BRUECKMANN CASE--BK/O AND BK/L REGARDING
SAFEGUARDS

1. AFTER INTENSIVE CONSULTATIONS, WHICH CONTINUED THROUGH WEEKEND, AND COMPROMISE ON ALL SIDES, ALLIES HAVE AGREED ON TEXTS GIVEN BELOW OF BK/O AND BK/L FOR ISSUANCE IN BERLIN UPON PASSAGE BY FRG OF AMENDING LEGISLATION TO 1953 LAW ON INNER GERMAN LEGAL ASSISTANCE. JUDGMENT OF ALL EMBASSIES IS THAT, WITH BUNDESTAG LEGAL COMMITTEE SCHEDULED TO CONSIDER OVERALL MATTER OF AMENDING LEGISLATION AT MORNING MEETING WEDNESDAY, SEPTEMBER 18, IT HIGHLY DESIRABLE TO REPLY TO FRG REQUEST FOR VIEWS ON FRG DRAFT BY TUESDAY, SEPTEMBER 17. UPON DIRECTIVE OF CHANCELLOR'S OFFICE, STATE SECRETARY SACHS ON SEPTEMBER 16 REQUESTED ALLIED CHARGES TO CALL ON HIM ON SEPTEMBER 17, BUT THIS MEETING HAS BEEN CALLED OFF SINCE ALLIES IN POSITION TO REPLY TO FRG IN BONN GROUP ON THE 17TH.

2. TEXTS OF TRIPARTITELY-AGREED BK/O AND BK/L WILL BE PASSED TO FRG REP IN AFTERNOON BONN GROUP MEETING SEPTEMBER 17 AS ATTACHMENTS TO SHORT AIDE MEMOIRE CONTAINING ALLIED AGREEMENT THAT FRG DRAFT MAY BE TAKEN
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OVER IN BERLIN. ALLIED REPS WILL ALSO STATE ORALLY THAT

ALLIED AGREEMENT IS CONDITIONAL UPON CONFIRMATION BY BERLIN AUTHORITIES THAT PUBLIC PROSECUTOR, AS HE RE-OPENS CASE, WILL NOT TAKE ACCOUNT OF OR REFER TO FEDERAL CONSTITUTIONAL COURT ADVISORY OPINION ON BRUECKMANN. ALLIES WILL ALSO RESERVE RIGHT TO DEPRIVE OF EFFECT IN BERLIN ANY DECISION TAKEN UNDER AMENDING LAW NOT IN ACCORD WITH ALLIED DIRECTIVES AND ORDERS.

3. SINCE FRG WILL RECEIVE TEXTS BK/O AND BK/L AFTER-NOON SEPTEMBER 17, WE THINK IT APPROPRIATE THAT SENAT OFFICIALS ALSO RECEIVE THEM AT SAME TIME AND FRENCH, AS CHAIR FOR MONTH, HAVE AGREED TO PASS THEM IN ACCORDANCE WITH NORMAL PROCEDURE. BEGIN TEXT BK/O: SUBJECT: FEDERAL LAW TO AMEND THE LAW ON INNER-GERMAN LEGAL ASSISTANCE IN CRIMINAL MATTERS OF 1953.

THE ALLIED KOMMANDATURA HAS NOTED THE PROMULGATION IN THE FEDERAL REPUBLIC OF GERMANY OF THE LAW CITED ABOVE WHICH IT IS INTENDED TO ADOPT IN BERLIN IN ACCORDANCE WITH ESTABLISHED PROCEDURES.

THE ALLIED KOMMANDATURA HAS NO OBJECTION TO SUCH ADOPTION OF THIS LAW AND IN THIS CONNECTION ORDERS AS FOLLOWS:

1. THE ADOPTION IN BERLIN OF THE LAW CITED ABOVE SHALL IN NO WAY AFFECT ALLIED RIGHTS AND RESPONSIBILITIES OR ALLIED LEGISLATION, IN PARTICULAR BK/O(51)10 AND BK/O(52)35.
2. ANY DECISIONS REACHED BY THE COMPETENT AUTHORITIES UNDER THE PROVISIONS OF THE LAW CITED ABOVE IN CASES ARISING IN BERLIN MAY TAKE EFFECT IN BERLIN ONLY TO THE EXTENT THAT THEY ARE IN ACCORDANCE WITH ALLIED ORDERS AND DIRECTIVES.

THE ALLIED KOMMANDATURA RESERVES ITS RIGHT TO TAKE WHATEVER MEASURES IT DEEMS NECESSARY IN RELATION TO SUCH DECISIONS.

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THIS ORDER WILL BE TRANSMITTED TO THE GOVERNING MAYOR, BERLIN FOR SUCH ACTION AS MAY BE NECESSARY IN RELATION TO IT, INCLUDING PUBLICATION IN ACCORDANCE WITH BK/O(64)4. (CLOSE) END TEXT.

BEGIN TEXT BK/L: SUBJECT: FEDERAL LAW TO AMEND THE LAW OF INNER-GERMAN LEGAL ASSISTANCE IN CRIMINAL MATTERS OF 1953.

TO: THE GOVERNING MAYOR, BERLIN

DEAR MR. GOVERNING MAYOR:

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O R 171413Z SEP 74

FM AMEMBASSY BONN

TO USMISSION BERLIN IMMEDIATE

INFO SECSTATE WASHDC 5076

C O N F I D E N T I A L SECTION 02 OF 02 BONN 14708

THE ALLIED KOMMANDATURA HAS TODAY ENACTED BK/O(74)
(BLANK) NOTING THE INTENTION TO ADOPT THE ABOVE-CITED
LAW IN BERLIN IN ACCORDANCE WITH THE ESTABLISHED PRO-
CEDURES. IN THIS CONNECTION, THE ALLIED KOMMANDATURA
WISHES TO DRAW ATTENTION TO THE FACT THAT ALLIED RIGHTS
AND RESPONSIBILITIES AND ALLIED LEGISLATION, IN
PARTICULAR BK/O(51)10, BK/O(52)35, BK/L(67)10 AND
BK/L(74)9 REMAIN UNAFFECTED.

CONSEQUENTLY, IN ACCORDANCE WITH THEIR LONG-
STANDING POSITION IN THESE MATTERS, THE AK RESERVES THE
RIGHT TO DEPRIVE OF EFFECT IN BERLIN ANY DECISION
REACHED BY THE COMPETENT AUTHORITIES UNDER THE PROVI-
SIONS OF THE ABOVE-CITED LAW IF SUCH DECISION WERE NOT
IN ACCORDANCE WITH ALLIED ORDERS AND DIRECTIVES.

YOU ARE REQUESTED TO ENSURE THAT BK/O(74)(BLANK)
IS PUBLISHED IN THE GESETZ-UND VERORDNUNGSBLATT FUER
BERLIN AT THE SAME TIME AS THE PROMULGATION OF THE LAW
TO WHICH IT RELATES. (CLOSE) END TEXT.
USBER MAY WISH TO COORDINATE WITH UKBER PASSAGE OF
ENGLISH VERSION THESE DOCUMENTS.
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Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: DOCUMENTS, EXTRADITION, TREATY VIOLATION, DIPLOMATIC DISCUSSIONS, FOREIGN POLICY POSITION, COURTS, BERLIN
QUADRIPARTITE MATTERS
Control Number: n/a
Copy: SINGLE
Draft Date: 17 SEP 1974
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: cunninfx
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1974BONN14708
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: GS
Errors: N/A
Film Number: D740260-0269
From: BONN
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1974/newtext/t19740940/aaaabhrz.tel
Line Count: 182
Locator: TEXT ON-LINE, ON MICROFILM
Office: ACTION EUR
Original Classification: CONFIDENTIAL
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 4
Previous Channel Indicators:
Previous Classification: CONFIDENTIAL
Previous Handling Restrictions: n/a
Reference: n/a
Review Action: RELEASED, APPROVED
Review Authority: cunninfx
Review Comment: n/a
Review Content Flags:
Review Date: 08 MAY 2002
Review Event:
Review Exemptions: n/a
Review History: RELEASED <08 MAY 2002 by cunninfx>; APPROVED <06 MAR 2003 by cunninfx>
Review Markings:

Declassified/Released
US Department of State
EO Systematic Review
30 JUN 2005

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: BRUECKMANN CASE--BK/O AND BK/L REGARDING SAFEGUARDS
TAGS: PGOV, WB, GE, US, UK, FR, (BRUECKMANN)
To: BERLIN
Type: TE
Markings: Declassified/Released US Department of State EO Systematic Review 30 JUN 2005